

## **REMARKS**

### **A. Status of the Claims**

Claims 1-11 were filed and examined. Claims 1, 6 and 9 have been amended, and claims 12-20 have been added. No claims have been canceled. Thus, claims 1-20 will be pending upon entry of the amendments.

### **B. The Original Claims Are Patentable over Agerley**

#### **1. Claim 1**

Claim 1 has been amended to recite that the claimed flow activation member is made from a rubber-like material. This amendment is made to distinguish Agerley (USPN 4,586,464) and for no other reason. Agerley does not teach or suggest a flow activation member that is removably attachable to the claimed base cap, that has a triggering mechanism and a flow activation member flow aperture, and that is made from a rubber-like material. Accordingly, claim 1 and its dependent claims are patentable over Agerley.

#### **2. Claim 6**

Claim 6 has been amended to recite that the lever of the claimed flow activation member is integral with the material that defines the flow activation member flow aperture. This amendment is made to distinguish Agerley and for no other reason. Agerley's operating lever 8 is separate from both washer 7 and lower housing element 10. Agerley does not teach or suggest a lever that is integral with material that defines a flow activation member flow aperture. Accordingly, claim 6 and its dependent claims are patentable over Agerley.

#### **3. Claim 9**

Claim 9 has been amended to recite that the claimed base cap is internally threaded so as to be removably attachable to an externally threaded portion of the container. This amendment is

made to distinguish Agerley and for no other reason. Upper housing element 4 of Agerley is externally threaded, and there is no suggestion in Agerley to internally thread upper housing element 4. Accordingly, claim 9 and its dependent claims are patentable over Agerley.

**C. The New Claims Are Patentable over Agerley**

**1. New Claim 12**

Claim 12 recites, in relevant part, a flow activation member that has a triggering mechanism that extends from elastic material that includes multiple flow activation member flow apertures. Agerley fails to teach or suggest a flow activation member that has a triggering mechanism that extends from elastic material that includes multiple flow activation member flow apertures. Accordingly, new claim 12 and its dependent claims are patentable over Agerley.

**2. New Claim 18**

Claim 18 recites, in relevant part, a flow activation member being made from elastic material. Agerley fails to teach or suggest such a flow activation member. Accordingly, new claim 18 and its dependent claims are patentable over Agerley.

**D. Petition for Extension of Time in This and Future Responses**

Pursuant to 37 C.F.R. § 1.136(a), Applicants petition for a 3-month extension of time in which to respond to the outstanding Office Action. The Office is authorized to deduct the small-entity process fee for the 3-month extension of time, the extra claim fees, and any additional fees required for any reason from to Fulbright & Jaworski Deposit Account No.: 50-1212/RJPD:006US.

The Office is further authorized to treat any concurrent or future reply that requires a petition for an extension of time under 37 C.F.R. § 1.136(a) to be timely as incorporating a petition for an extension of time for the appropriate length of time, and to deduct all required fees

under 37 C.F.R. §§ 1.16 to 1.21 relating to any such replies of other relevant papers from Fulbright & Jaworski Deposit Account No.: 50-1212/RJPD:006US.

**E. Conclusion**

Applicants respectfully submit that claims 1-20 are in condition for allowance. The Office is invited to contact the undersigned attorney at (512) 536-3031 with any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark T. Garrett", with a stylized flourish at the end.

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